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REMARKS

Claim 1 is rejected under 35 USC 103 as being unpatentable over Chlamtac et al, 'Scalable WDM access network architecture based on photonic slot routing,' IEEE/ACM Transaction on Networking, col. 7, Feb. 1999, pp 1-9 in view of Sasayama et al US Patent 5,549,324, and further in view of Tsushima et al US Patent 5,600,466. This is the same rejection that was lodged in the previous Office Action.

In the previous response applicants traversed the rejection and requested reconsideration in light of applicants' view that Tsushima et al completely fail to disclose a wavelength stacker as claimed. In support of this statement applicants submitted an affidavit by Dr. Feurer.

The Examiner states that the arguments in the amendment and the affidavit are unpersuasive. The reason given by the Examiner is that the Examiner disagrees with the statement

Tsushima completely fails to disclose a wavelength stacker. At no point in Tsushima's patent is there any hint of converting serial data to parallel data, either electronically or optically

on two grounds:

1. The claims do not specifically require converting serial data to parallel data.
2. The claims only require a stacker, and Sasayama teaches a rapidly tunable laser and Tsushima 'clearly teaches' the concept of using delay lines for lining up packets to form a composite packet.

Applicants respectfully traverse.

With respect to the Examiner's first ground applicants respond as follows.

First, the above-quoted statement of the Affidavit does not assert that claim 1 specifies converting serial data to parallel data and, indeed, makes no reference to claim 1 at all.

Second, while claim 1 does not use the very words used in the statement ('converting serial data to parallel data'), **the above-quoted statement is nevertheless valid relative to claim 1.**

Third, the above-quoted statement was offered to demonstrate that the Examiner's reasoning for rejecting claim 1, as expressed in the previous Office action, is invalid. It noted that the Examiner combined the teachings of Sasayama et al with the teachings of

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Tsushima et al; and in connection with the Sasayama et al reference the Examiner referred to the rapidly tunable laser. This rapidly tunable laser is at a given wavelength during a time slot, and changes wavelength, if necessary, when a new time slot arrives.¹ *Thus, it is effectively the Examiner who asserted that the serially generated packets of Sasayama et al are employed by Tsushima et al to form the composite packet.* The above-quoted affidavit statement demonstrates the error in the Examiner's assertion. Returning to first ground of the Examiner's reasoning for asserting that the Affidavit's statement is not persuasive, it is respectfully submitted, **it is not proper to assert that a statement is persuasive relative to matter A (the wording of claim 1) when that statement is offered in support of matter B (that the combination of Sasayama et al and Tsushima et al does not yield that which the Examiner asserts).**

Applicants again respectfully submit that if one is to combine the teachings of Sasayama et al with the teachings of Tsushima et al, as the Examiner is suggesting, then one must take the packets that arrive at the Tsushima et al arrangement to be serial in nature, one per time slot, as is taught by Sasayama et al. It is these serially arriving packets, at different wavelengths, that need to be used to form the composite packet. But that is NOT what taught or suggested by Tsushima et al do; which brings applicants to the second ground above.

Respectfully, the Examiner is categorically wrong regarding the second ground! It is true that Tsushima has delay lines, but they do NOT intend to take packets that are serially generated and create from them a composite packet. As explained in point 7 of the affidavit, the delay lines merely provide minor alignments. That is, they only insure that all of the packets that are *nominally* in a time slot are properly synchronized in the time slot.

This fact was addressed at point 7 of the affidavit which, for the Examiner's convenience is quoted below.

The apparent similarity between Tsushima's Fig. 2b, Fig. 7, or Fig.8 and Fig. 11 of the subject application is misleading: the optical delay

¹ If the Examiner brings up the Sasayama et al reference as an assertion of a correspondence between the rapidly tunable laser of Sasayama et al and the rapidly tunable laser of applicants' claim 1, applicants will not disagree.

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elements in Tsushima are there only to correct chromatic dispersion, to realign parallel packets into their respective time slots. They are never used to assemble serial packets or to shift a packet from the timeslot in which it was generated. Optical delays for dispersion correction are sized according to the amount of dispersion, with no reference to the packet or slot time. On the other hand, optical delays for a packet stacker must be sized according to the packet time, which may be orders of magnitude different than the dispersion time. So Tsushima's discussion of delay times (Tsushima col. 5, lines. 55-59) teaches away from the needs of a packet stacker (emphasis supplied).

It is noted that the Examiner has **not** rebutted point 7 of the affidavit and, in fact, has not even commented on it.

Thus, respectfully, whatever broad interpretation the claim must be given according to MPEP §2106, the bottom line is that Tsushima et al, combined with Sasayama et al, do not teach or suggest a stacker that stacks "said plurality of serially generated packets to form a composite packet."

For all intents and purposes the detailed comments of the rejections of the outstanding claims are essentially identical to the rejections made in the previous Office Action. Applicants respectfully incorporate by reference the arguments made in the previous Office action response.

To expedite prosecution, claim 1 is amended to make explicit that which inherently, or implicitly, is already in the claim.

In light of the above amendments and remarks, applicants respectfully request reconsideration and allowance of the outstanding claims.

Respectfully,
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Dated: 10/8/07

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